29: Hoebel E-4,5 (1933) 1969 NO6 Comanche NO6

ambiguity of powers of the chieftains, it is not surprising that in this tribe there were no public officials endowed with law-speaking or law-enforcing authority. The law of the Comanche was neither legislative nor judge-made. It was, as we have written elsewhere, "hammered out on the hard anvil of individual cases by claimant and defendant pressing the issues in terms of Comanche notions of individual rights and tribal standards of right conduct."[3] Thus it was almost exclusively a system of private law: a system of individual responsibility and individual action; a law that was case made.

The Comanches surely had no love of legalistic formalism, but they were a most litigious people. Their way of life engendered considerable internal friction. It might almost be said that the Comanches savored trouble-making. Their own accounts of their war parties as often as not begin with a laconic "once there was a bunch of Comanches out looking for trouble."

So, also, a man was often moved to take steps that made trouble. He stole another man's wife, or he secretly consorted with her. When this was done, the husband had no choice but to initiate legal action. Magnanimity on his part would bring no praise, for there was no doctrine of turning the other cheek. A man's status turned on his bravery, and for an offended husband not to act reflected merely on his courage; it was seen not as an act of forgiveness but as an expression of lily-livered cowardice. Wife-stealing and adultery were not the result of any sexual deprivation on the part of the offender; they were in effect deliberate challenges to the prestige of the husband. As such, he was forced in the eyes of the people to respond to them.

The way was open to him in legal action. Custom impelled men to violate the marital rights of other men. The culture also provided a legal remedy for the wronged man. Except in a few rare and extreme cases, the wrongdoer fully expected to pay the legal price—and did so without forcing the injured husband to a violent bodily attack. He knew well that he would have to pay a price, but he also knew that if he was steadfast and could outface the other man, the price would be light. In that case he would come out of the affair with greater public respect than the husband and he might get the woman to boot. So he took the risk.

In the memory of a dozen old Comanche informants still living in 1933 forty-five cases of old-time legal actions involving wife-stealing and adultery were still vivid enough for detailed recording.[4] Twenty-two were wife-absconding cases and twenty-three involved adultery.

As it takes two to make a contract it also takes two to commit adultery or a wife-absconding (Comanche women were not forcibly stolen). The woman's role in these affairs was very frequently an expression of individual revolt against the workings of Postulate III.[A] Theoretically in all instances,

[3] Wallace and Hoebel, p. 224.

[4] Cf. Hoebel, *Political Organization and Law-ways*, pp. 49–59.

A [see category 181, p. 69--Analyst]